UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,630	07/05/2000	Mark Joseph Bearden	2-4-2-2	3868

7590 03/26/2004	EXAMINER
Thomas Stafford	LAFORGIA, CHRISTIAN A
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ART UNIT	PAPER NUMBER
2131	12

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	09/610,630	BEARDEN ET AL.
	Examiner	**Art Unit**
	Christian La Forgia	2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 January 2003_.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-42_ is/are pending in the application.

4a) Of the above claim(s) _2-4 and 27-29_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,5-26 and 30-42_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1. The amendment filed on 12 January 2004 is noted and made of record.

2. Claims 1-42 are presented for examination.

3. Claims 2-4 and 27-29 have been cancelled as per Applicant's request.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 5-26, and 30-42 have been considered but

are moot in view of the new ground(s) of rejection.

5. See further rejections that follow.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 5-26, and 30-42 are rejected under 35 U.S.C. 102(e) as being anticipated by

U.S. Patent No. 6,671,724 to Pandya et al., hereinafter Pandya.

8. As per claims 1 and 26, Pandya teaches a method for use in a policy-based management

system for a computer network having one or more network resources comprising the steps of:

enabling a system administrator to specify predefined service level goals for said

computer network (Figures 5 [block 106], 14-16; column 2, lines 41-49; column 4, lines 34-46;

column 6, lines 47-59; column 7, lines 54-58);

specifying a prescribed quality of service goal for a prescribed client and prescribed service (Figures 13-16; column 8, lines 7-20; column 8, lines 31-64; column 8, line 67 to column 9, line 32; column 21, lines 6-38);

executing policy logic to automatically enforce said specified quality of service goal (Figures 9, 11a, 11b [blocks S22, S24], 11c [blocks S44, S46]; column 8, lines 22-31; column 14, lines 52-67; column 16, lines 28-44);

determining a delivered quality of service for said specified quality of service goal being executed, said determining a delivered quality of service including continuously monitoring states of said computer network resources assigned to said prescribed client and said service (column 6, lines 42-58; column 8, lines 22-31; column 14, lines 52-67; column 16, lines 28-44);

determining if said delivered quality of service is different than said specified quality of service goal (Figures 11a, 11b [blocks S22, S24], 11c [blocks S44, S46]; column 8, lines 22-31; column 14, lines 52-67; column 16, lines 28-44); and

if so, executing prescribed actions regarding network resources assigned to said client for said prescribed service, wherein said actions are intended to adjust said delivered quality of service toward being equal to said specified quality of service goal (Figures 11a, 11b [blocks S22, S24], 11c [blocks S44, S46]; column 8, lines 22-31; column 14, lines 52-67; column 16, lines 28-44),

wherein said system administrator does not have to specify said prescribed actions intended to enforce said specified quality of service goal (column 14, lines 52-67; column 16, lines 28-44).

9.   Concerning claims 5, 20, 30, and 37, Pandya teaches wherein said step of determining if

said delivered quality of service is different includes a step of determining if said delivered

quality of service exceeds said specified quality of service goal and, if so, said step of executing

includes steps of determining and executing a set of actions to reduce said computer network

resources assigned to said prescribed client and said prescribed service of said specified quality

of service goal (Figures 11a, 11b; column 16, lines 34-44; column 17, lines 5-35).

10.   Concerning claims 6, 9, 21, 24, 31, 34, 38, and 41, Pandya teaches further including a

step of reporting to said system administrator said set of actions (column 4, lines 40-46).

11.   Concerning claims 7, 10, 22, 25, 32, 35, 39, and 42, Pandya teaches further including a

step of reporting to said system administrator results of executing said actions (column 4, lines

40-46).

12.   Concerning claims 8, 23, 33, and 40, Pandya teaches wherein said step of executing

policy logic to determine if said delivered quality of service is different includes a step of

determining if said delivered quality of service is worse than said specified quality of service

goal and, if so, said step of executing prescribed actions includes steps of determining and

executing a set of actions to increase network resources assigned to said prescribed client and

said prescribed service of said specified quality of service goal (Figures 11a, 11c; column 16,

lines 46-56; column 17, lines 36-59).

13.   Regarding claim 11, Pandya teaches further including the steps of storing said specified quality of service goals and determining whether said stored quality of service goals should be updated (column 14, lines 52-67).

14.   With regards to claim 12, Pandya teaches further including a step of updating said stored quality of service goals (column 14, lines 52-67).

15.   Concerning claim 13, Pandya teaches wherein each of said quality of service goals is a service level quality of service goal (column 8, lines 32-64).

16.   Concerning claim 14, Pandya teaches wherein said step of updating includes steps of adding a service level quality of service goal to said stored quality of service goals, redefining a stored service level quality of service goal or removing a stored service level quality of service goal (Figures 13-16; column 14, lines 52-67; column 20 line 51 to column 21, line 5).

17.   Regarding claim 15, Pandya teaches further including steps of monitoring a state of each network resource in a set of network resources and storing said monitored states (column 12, lines 17-63; column 13, lines 21-42; column 14, lines 34-44).

18.   With regards to claim 16, Pandya teaches further including a step of updating said monitored state of each network resource in said set of said network resources (column 12, lines 17-63; column 13, lines 21-42; column 14, lines 34-44).

19.   Concerning claim 17, Pandya teaches wherein said step of updating includes steps of

requesting an update of said state of each network resource in said set of network resources,

querying said state of each network resource in said set of network resources and storing said

updated state (column 12, lines 17-63; column 13, lines 21-42; column 14, lines 34-44).

20.   With regards to claim 18, Pandya teaches wherein said step of monitoring further

includes steps of receiving a network event notification indicating a change in state of a network

resource and storing said indicated change of state of said network resource as an update of the

state of said network resource (column 12, lines 17-63; column 13, lines 21-42; column 14, lines

34-44).

21.   Regarding claims 19 and 36, Pandya teaches further comprising the steps of:

storing said set of service level quality of service goals (Figures 13-16; column 8, lines 7-

20; column 8, lines 31-64; column 8, line 67 to column 9, line 32; column 21, lines 6-38);

storing said monitored states of a set of network resources (column 12, lines 17-63;

column 13, lines 21-42; column 14, lines 34-44);

wherein said step of specifying a prescribed quality of service goal includes selecting said

prescribed defined quality of service goal from said stored service level quality of service goals

for a prescribed client and prescribed service (Figures 13-16; column 8, lines 7-20; column 8,

lines 31-64; column 8, line 67 to column 9, line 32; column 21, lines 6-38); and

wherein said step of determining a delivered quality of service includes a step of using

said stored monitored states to determine a delivered quality of service for said specified quality

of service goal (Figures 11a-11d; column 16, line 57 to column 17, line 22).

Conclusion

22.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

23.   The following patents are cited to further show the state of the art with respect to policy-

based management networks, such as:

United States Patent No. 6,690,649 to Shimada, which is cited to show a quality of

service management apparatus.

United States Patent No. 6,212,562 to Huang, which is cited to show criticality and

quality of service based resource management.

United States Patent No. 6,091,709 to Harrison et al., which is cited to show quality of

service management for packet switched networks.

United States Patent No. 6,154,776 to Martin, which is cited to show quality of service

allocation on a network.

United States Patent No. 5,898,668 to Shaffer, which is cited to show a system for

increasing quality of service at or below a threshold cost.

24.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

25.   A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

26.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Christian La Forgia whose telephone number is (703) 305-7704.

The examiner can normally be reached on Monday thru Thursday 7-5.

27.   If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on (703) 305-9648. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

28.   Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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